

REMARKS

The Official Action of April 5, 2005, and the prior art cited and relied upon therein have been carefully studied. The claims in the application is now claim 4, and this claim defines patentable subject matter warranting its allowance. Favorable reconsideration and such allowance are respectfully urged.

Claims 1-3 have been canceled in favor of new independent claim 4, which remains in the application for consideration.

The Examiner has rejected claims 1-2 under 35 U.S.C. §102(b) as being anticipated by either Barton '197 or Bertrand '366, and claim 3 under 35 U.S.C. 103(a) as being unpatentable over Barton further in view of Bertrand and Scholder '115. Applicant traverses all of these rejections as applied to new independent claim 4.

Applicant does not agree that both Barton and Bertrand disclose a machine having a support member 12, 12, a rotatable frame 24, 34 mounted to the top end of the support, a motor 70, 26, a driving device 72 mounted on the support, and a controller (column 3, lines 30-36), 98.

Barton does not teach a driving device mounted on the top end of a support member or a driving device comprising a transmission gear, a worm and a worm gear driven by a motor. In Barton, the driving device includes a motor 70 on the bottom of the support member 12 that drives a metal cable 72 to rotate the frame 24 on support member 12. Applicant respectfully submits that the claimed gear system and its location is clearly not shown or taught in Barton.

In Bertrand, the rotatable frame 32 has no rotation shaft fixed on a central portion of the frame which is rotatable mounted on a top end of the support member. Bertrand frame 32 is mounted on rotatable housing 20 at an end of frame 32. As such, the Bertrand trainer is not able to invert a user on the frame as it rotates along arrow A.

Further, while Bertrand indicates that housing 20 can be rotated in the direction of arrow A (see Fig. 1) by a motor or manually using a manually operated worm gear 24 (see lines 39-46, column 2 of Bertrand), the worm gear is not shown in the detail claimed by Applicant, nor is the worm gear engaged to a rotation shaft fixed to a central portion of frame 32.

Applicant notes for the Examiner's interest that motor 26 of Bertrand cited by the Examiner rotates shaft 28

through drive belt 30 to turn frame 32 along arrow B (see Fig. 1). As such, shaft 28 is not a transverse rotation shaft as claimed.

With regard to the rejection of claim 3 based on the cited prior art, Applicant first notes that the rejection appears to be incomplete and not fully understandable, as the last sentence of paragraph 5 is incomplete and leaves unstated how the Examiner intends to apply the cited art. However, assuming that the Examiner intends to indicate that Scholder teaches that it would be obvious to use the gear system as taught by Scholder for that of Bertrand, Applicant does not agree. The Scholder gear system is used in exercise apparatus which provides a variable load torque that substantially equals and opposes any possible input torque. This apparatus has no relationship to the pivoting frame apparatus of Barton and Bertrand. As the gear system of Scholder is not directed to pivoting a frame of the type shown in Barton or Bertrand, the skilled artisan would have no incentive whatever for substituting the gear system of Scholder for that of Bertrand.

In light of the above-identified structural differences, Applicant respectfully submits that the claimed invention patentably defines over the cited prior art combinations.

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The prior art documents made of record and not relied upon have been noted along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their applications against any of applicant's claims.

Favorable reconsideration and allowance are earnestly solicited.

Respectfully submitted,

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